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FISCAL IMPACT STATEMENT

LS 7498 **NOTE PREPARED:** Apr 9, 2009
BILL NUMBER: SB 448 **BILL AMENDED:** Apr 9, 2009

SUBJECT: State and Local Administration.

FIRST AUTHOR: Sen. Charbonneau **BILL STATUS:** CR Adopted - 2nd House
FIRST SPONSOR: Rep. Austin

FUNDS AFFECTED: X GENERAL **IMPACT:** State & Local
X DEDICATED
FEDERAL

Summary of Legislation: (Amended) *Enterprise IT Exemption:* This bill provides that before January 1, 2013, a designating body may adopt a resolution providing the exemption to a particular business. It requires that the designating body and the eligible business enter into an agreement concerning the property tax exemption, which must specify the duration of the property tax exemption and may specify that a transferee is entitled to the exemption on the same terms as the transferor. The bill specifies that the exemption continues for the period specified in the agreement, notwithstanding the January 1, 2013, deadline to adopt a resolution granting an exemption.

The bill defines enterprise information technology equipment as:
(1) hardware supporting computing, networking, or data storage function, including servers and routers;
(2) networking systems having an industry designation as equipment within the "enterprise" or "data center" class of networking systems that support the computing, networking, or data storage functions; and
(3) generators and other equipment used to ensure an uninterrupted power supply to such hardware and networking systems. It provides that enterprise information technology equipment does not include computer hardware designed for single user, workstation, or departmental level use.

The bill also defines an eligible business to be an entity that meets the following requirements:
(1) The entity is engaged in a business that operates one or more facilities dedicated to computing, networking, or data storage activities.
(2) The entity is located in a facility or data center in Indiana that contains in the aggregate at least $10,000,000 in personal property or real property investment that is made after June 30, 2009.

(3) The average employee wage of the entity is at least 125% of the county average wage for each county in which the entity conducts business operations.

Aircraft Sales Tax Exemption: This bill provides exemptions of aircraft from gross retail and use taxes.

Alternative Fuel Vehicle Manufacturer Tax Credit: The bill provides that the term "alternative fuel" includes biodiesel and diesel fuel for purposes of the Hoosier alternative fuel vehicle manufacturer tax credit.

Slot Machine Revenue Reallocation: This bill reallocates a portion of the slot machine revenues distributed for thoroughbred purposes by decreasing money primarily used for purses and increasing money for the breed development fund. It also establishes an interim study committee on horse racing.

Foresters: This bill requires the State Personnel Department to reclassify the job category and skill level applying to district foresters retroactive to July 1, 2008. It provides that district foresters are entitled to back pay for 2008-2009. The bill also repeals a 2008 noncode provision concerning district foresters.

Economic Improvement Districts: The bill provides that property tax exempt properties in an economic improvement district may be subject to special assessments. It specifies that the board for a district consisting of only one property owner must include the property owner. The bill clarifies the status of assessments for purposes of the Internal Revenue Code. It authorizes bonding for an economic improvement project. This bill provides that taxing units expecting to receive an economic benefit from an economic improvement district project may pledge special assessments and other legally available funds for the repayment of bonds or lease rentals for certain projects. It also specifies that the pledge does not create debt for the taxing unit.

Effective Date: (Amended) January 1, 2008 (Retroactive); July 1, 2008 (Retroactive); January 1, 2009 (Retroactive); Upon Passage; July 1, 2009.

Explanation of State Expenditures: (Revised) *Department of State Revenue (DOR*) :This bill could increase the administrative costs of the DOR. The DOR will have to amend tax forms, as well as update computer software. It is estimated that the provisions of this bill could be implemented within the existing level of resources available to the DOR.

Foresters: This provision would increase expenditures to the DNR by an estimated $165,000 with $127,000 in back pay and $38,000 remaining in FY09. This personnel expense would be paid from the main operating account of the Division of Forestry. This account is 1/3 general fund and 2/3 dedicated.

Explanation of State Revenues: (Revised) *Aircraft Sales Tax Exemption*: This bill provides that an aircraft is exempt from Sales Tax if the gross lease revenue derived from leasing or rental of the aircraft is equal to or greater than the book value of the aircraft; or 7.5% of the greater of the book value of the aircraft or the net acquisition price of the aircraft

Under current statute, an aircraft is exempt from Sales Tax if the amount of lease revenue is equal to or greater than 10% of the original cost or the book value of the aircraft; or 7.5% of the original cost or book value of the aircraft if the value of the aircraft is at least $1,000,000.

The bill also provides that the DOR may not assess sales tax if a person does not meet the revenue threshold because of certain conditions outlined in the bill. These provisions could have an indeterminable impact on Sales Tax revenue.

(Revised) *Alternative Fuel Vehicle Manufacturer Tax Credit:* The bill extends qualification for the tax credit to a manufacturer of a vehicle that operates on biodiesel or diesel fuel. This provision expands the potential pool of applicants for the tax credit, however, the fiscal impact of the expansion is indeterminable and would depend on IEDC actions to award the tax credit.

(Revised) *Slot Machine Revenue Reallocation:* The bill changes the required allocation of racetrack slot machine adjusted gross receipts (AGR) for thoroughbred purposes only. Of the total receipts directed to thoroughbred purposes, the bill decreases from 60% to 40% the share allocated to thoroughbred purses and horsemen's associations and provides for a compensating increase in the share allocated to thoroughbred breed development fund established under current statute. The change is effective January 1, 2009. The bill could potentially increase the amount allocated to the thoroughbred breed development fund by at least $4.8 M in 2009 and 2010, with allocations to thoroughbred purses and horsemen's associations decreased by that amount. The impact of the allocation change would grow in future years with growth in slot machine AGR.

<u>Background Information</u>: *Aircraft Sales Tax Exemption* - Under current statute, a transaction in which a person acquires an aircraft for rental or leasing in the ordinary course of the person's business is not exempt from sales tax unless the person establishes under guidelines adopted by the DOR that the annual amount of the gross lease revenue derived from leasing or rental of the aircraft is equal to or greater than:
(1) 10% of the greater of the original cost or the book value of the aircraft, if the original cost of the aircraft was less than $1,000,000;
(2) 7.5% of the greater of the original cost or the book value of the aircraft, if the original cost of the aircraft was at least $1,000,000.
If the DOR determines that the gross lease revenue derived from leasing or rental of the aircraft in the previous year does not meet the revenue threshold, the person is required to pay the Sales Tax in the current year.

Sales Tax revenue is deposited in the state General Fund (99.178%), the Public Mass Transportation Fund (0.670%), the Commuter Rail Service Fund (0.123%), and the Industrial Rail Service Fund (0.029%) .

Alternative Fuel Vehicle Manufacturer Tax Credit - Current statute provides for a non-refundable tax credit against the Individual or Corporate AGI Tax, Financial Institutions Tax, or Insurance Premiums Tax liability of taxpayers who make qualified investment in infrastructure, facilities, machinery, and equipment in Indiana to manufacture or assemble alternative fuel vehicles. An "alternative fuel vehicle" is a vehicle designed to operate on at least one of the following fuels: methanol, denatured ethanol, and other alcohols; mixtures containing 85% methanol, denatured ethanol, and other alcohols with gasoline or other fuel; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; non-alcohol fuels derived from biological material; P-Series fuels; or electricity. The tax credit must be determined by the Indiana Economic Development Corporation (IEDC), with a maximum allowable tax credit of 15% of the qualified investment. Current statute allows the IEDC to award the tax credit for investment made between 2007 and 2012. The excess credit amounts may be carried for up to nine years.

Slot Machine Revenue Reallocation - Under current statute, Hoosier Park and Indiana Downs are each required to set aside for various purposes 15% of the AGR generated by the slot machine facilities at the racetracks. It is estimated that the 15% set aside could potentially total at least $54 M in 2009 and 2010. After each racetrack allocates $250,000 annually to the State Gaming Integrity Fund, 97% of the remainder is divided between thoroughbred, standardbred, and quarter horse purposes. Of this total, thoroughbred purposes receive a 46% share, with 60% allocated to thoroughbred purses and horseman's associations and 40% allocated to thoroughbred breed development funds.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Enterprise IT Exemption:* Under this bill, a county or municipal fiscal body could grant a property tax exemption for enterprise information technology equipment owned by an eligible business. If the property is located within a municipality, then the municipal fiscal body would be the designating body. The county fiscal body would be the designating body for property located in an unincorporated area. The designating body could adopt a resolution through December 31, 2012, to exempt property. The term of the exemption, however, could extend beyond 2012 and would have to be set in an agreement between the designating body and eligible business. The designating body would be required to give notice of the resolution and must hear all remonstrances and objections. A final resolution would be adopted after the hearing.

The exemption would not be limited to new investments and could apply to an eligible business' existing property as well. If any existing assessed value is exempted, then the tax base would be reduced and tax rates would increase. The increased tax rate would shift part of the tax burden from owners of the exempt property to all other taxpayers. In areas where the circuit breaker caps have been triggered, the higher tax rates would result in a greater cost (taxing unit revenue loss) for the circuit breaker credits. The granting of any exemption under this bill would be a local decision.

The exemption of newly acquired property would not affect the existing tax base. If there is an increase in development because of the exemption, then other property could be added to the tax base. If the exemption period set locally is shorter than the life of the property, then the value of the enterprise information technology equipment could eventually be added to the tax base. However, if one assumes that the investment would be made with or without the exemption, then the granting of the exemption under this bill could also eliminate the normal shift of the property tax burden from all taxpayers to the owners of the new property that would have occurred.

(Revised) *Economic Improvement Districts:* Under current law, an economic improvement district (EID) may be formed by a county or municipality if a petition is signed by (1) a majority of the real property owners in the proposed district; and (2) the owners of at least 2/3 of the non-exempt assessed value in the proposed district. All real property owners in an EID, except those entities that are exempt from property taxation, must pay a special assessment that is used to fund improvements in the district. The district may also exempt for one year a business that is established after creation of the district.

Currently, EID projects may include the following:

1) Planning or managing development or improvement activities;
2) Designing, landscaping, beautifying, constructing, or maintaining public areas;
3) Promoting commercial activity or public events;
4) Supporting business recruitment and development;
5) Providing security for public areas;
6) Acquiring, constructing, or maintaining parking facilities; and
7) Constructing, rehabilitating, or repairing residential property.

Under this bill, EID projects could also include development of residential property, and other economic development and redevelopment projects. For purposes of projects involving residential property, residential property would be redefined as public and private residential property.

This bill would subject otherwise tax exempt property in the EID to the special assessments. In addition, the bill would permit a taxing unit to pledge the special assessments from an EID and any other available funds for the payment of debt without creating an obligation for the taxing unit.

State Agencies Affected: Department of State Revenue; Indiana Economic Development Corporation.

Local Agencies Affected: County and municipal fiscal bodies; County auditors; Local taxing units and school corporations.

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